

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL

April 26, 2022

**In Reply Refer to:**

EPA Complaint No. 04RNO-22-R5

Lori Lightfoot, Mayor  
City of Chicago  
Office of the Mayor  
121 North LaSalle Street  
Room 300, Office 42  
Chicago, IL 60602  
lori.lightfoot@cityofchicago.org

Allison Arwady, Commissioner  
Chicago Department of Public Health  
333 South State Street  
Room 200  
Chicago, IL 60604  
allison.arwady@cityofchicago.org

**Re: Rejection of Administrative Complaint (Without Prejudice)**

Dear Mayor Lightfoot and Commissioner Arwady:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), is rejecting the administrative complaint filed against the City of Chicago (City) and Chicago Department of Public Health (CDPH), received by ECRCO on January 11, 2022, without prejudice, in light of the related investigation pending with the U.S. Department of Housing and Urban Development (HUD) (HUD File No.: 05-20-0419-6/8/9), as well as CDPH's February 18, 2022 decision to deny a permit for the Southside Recycling metal recycling plant. The complaint filed with ECRCO alleges that the City and CDPH discriminated against the predominantly Latinx and Black community located in the Southeast Side of Chicago, Illinois, on the basis of race, color, and national origin in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000(d) *et seq.*, and EPA's nondiscrimination regulation, at 40 C.F.R. Part 7. Specifically, through their complaint and subsequent conversations with ECRCO the Complainants alleged: (1) the City and CDPH's process for reviewing the Southside Recycling permit subjected persons to discrimination on the basis of race and national origin; (2) the City and CDPH's approval of the Southside Recycling permit would result in adverse disparate impacts on the basis of race and national origin, an allegation that included concerns about the process initially used for the HIA conducted by CDPH; and (3) the City and CDPH's

criteria and methods of administering its clean air permitting program have the intent and/or effect of subjecting persons to discrimination on the basis of race, color and national origin in violation of Title VI and EPA's implementing regulations.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. See 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. See 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. See 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. See 40 C.F.R. § 7.15.

ECRCO may reject a complaint if the same allegations have been filed with another Federal agency and ECRCO anticipates that the agency will provide the complainant with a comparable resolution process. On this basis, ECRCO may reject the allegation without prejudice.<sup>1</sup> After careful consideration and for the reasons identified below, ECRCO is administratively closing the complaint without prejudice as of the date of this letter.

On October 20, 2020, HUD accepted for investigation a Title VI complaint filed against the City. In its acceptance letter, HUD's summary of the Title VI allegations stated, in part, "Complainants allege that the September 2019 agreement to relocate the business and operations of General Iron is just one discrete instance of the City of Chicago's longstanding and ongoing practice of facilitating the relocation of industrial entities from White, affluent neighborhoods, to Black and Latinx neighborhoods. Given the City's recently published 2020 Air Quality and Health Report, Complainants state the City is entirely aware that the communities it is relocating industrial actors to already experience significant, adverse, and disproportionate environmental burdens."<sup>2</sup> HUD's investigation of the Title VI complaint is pending, and HUD's investigation and resolution process is comparable to the process used by ECRCO. As such, given the scope of the allegations pending before HUD and to avoid duplication, ECRCO will close this case effective the date of this letter. ECRCO will continue to provide any support and assistance requested by HUD.

Please note that ECRCO is rejecting this complaint without prejudice and that the Complainants may refile a complaint within sixty (60) calendar days of the HUD decision, finding or conciliation agreement if that decision/finding/conciliation agreement does not resolve the civil rights allegations. If the complaint is refiled, ECRCO will conduct another preliminary review to determine acceptance, rejection, or referral.<sup>3</sup> Note that ECRCO generally anticipates adopting a decision/finding issued by another federal agency regarding the same allegation. ECRCO may

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<sup>1</sup> See ECRCO's Case Resolution Manual, Section 1.8 at: [https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5\\_final\\_case\\_resolution\\_manual\\_.pdf](https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf)

<sup>2</sup> See <https://drive.google.com/file/d/1i3bMd9UvhExZkhCIN2km4SucRHHV04Q17/view>, at page 4, #8.

<sup>3</sup> See ECRCO's Case Resolution Manual, Section 1.8 at: [https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5\\_final\\_case\\_resolution\\_manual\\_.pdf](https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf)

evaluate whether any additional action(s) by EPA is/are needed, in this case, as a result of HUD's decision, finding and/or conciliation agreement.<sup>4</sup>

If you have any questions, please contact me by telephone at (202) 564-9649 or at [dorka.lilian@epa.gov](mailto:dorka.lilian@epa.gov), or Case Manager, Katelyn Liesner at (202) 564-2035 or at [liesner.katelyn@epa.gov](mailto:liesner.katelyn@epa.gov).

Sincerely,



Lilian S. Dorka, Director  
External Civil Rights Compliance Office  
Office of General Counsel

cc: Ariadne Goerke  
Deputy Associate General Counsel  
Civil Rights & Finance Law Office

Cheryl Newton  
Deputy Regional Administrator  
Deputy Civil Rights Official  
U.S. EPA Region 5

Robert Kaplan  
Regional Counsel  
U.S. EPA Region 5

Lynn Grosso  
Director of Enforcement and Programs  
Office of Fair Housing  
U.S. HUD

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<sup>4</sup>ECRCO's decision in this case does not preclude future filing with ECRCO of complaints against the City and CDPH alleging discriminatory acts related to other facilities.